APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,473	03/22/2004	Sukendeep Samra	020699-004610US	3063

22852	7590	04/26/2006	

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER
COULTER, KENNETH R

ART UNIT	PAPER NUMBER
2141	

DATE MAILED: 04/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>9-12 and 14-20</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>9-12 and 14-20</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>22 March 2004</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Examiner requests information (patent number; patent publication number) regarding

the "Harada" reference, referred to on 3/22/04 (p. 5; REMARKS/ARGUMENTS section).

Examiner requests the updating of information in the "CROSS-REFERENCE TO

RELATED APPLICATIONS" section (paragraphs 6, 7, 8, and 9 of the specification).

Claim Rejections - 35 USC § 101

1.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

2.   Claim 20 is rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter.

Independent claim 20 is directed to software (instructions) that is not implemented on a

computer-readable **storage** medium.

Data structures not claimed as embodied in computer-readable media are descriptive
material *per se* and are not statutory because they are not capable of causing functional
change in the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760
(claim to a data structure *per se* held nonstatutory). Such claimed data structures do
not define any structural and functional interrelationships between the data structure

and other claimed aspects of the invention which permit the data structure's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory.

Double Patenting

3.   The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of -activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4.   Claims 9 – 12 and 14 – 20 are rejected on the ground of nonstatutory

obviousness-type double patenting as being unpatentable over claims 1 – 5 of U.S.

Patent No. 6,789,109. Although the conflicting claims are not identical, they are not

patentably distinct from each other because the claims of the present Application

closely map to the claims of the '109 patent as detailed below.

4.1   Claim 9 maps closely to claim 1 of '109.

4.2   Claim 10 maps closely to claim 1 of '109.

4.3   Claim 11 maps closely to claim 2 of '109.

4.4   Claim 12 maps closely to claim 2 of '109.

4.5   Claim 14 maps to claims 1, 2, 4, or 5 of '109 ("recorded environment").

4.6   Claim 15 maps to claims 1, 2, 4, or 5 of '109 ("image of a screen").

4.7   Claim 16 maps to claims 1, 4, or 5 of '109 ("settings of a current environment").

4.8   Claim 17 maps to claims 1, 4, or 5 or '109 ("transferring the recorded

environment to a remote location").

4.9   Claim 18 maps closely to claim 3 of '109 ("not present at the location remote from

the application program.").

4.10   Claim 19 maps closely to claim 1 of '109.

4.11   Claim 20 maps closely to claim 1 of '109.

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6.　　Claims 9, 11, 14 – 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Matsushita (U.S. Pat. No. 5,850,545) (Application Program Environment Setting System and Method).

6.1　Regarding claim 9, Matsushita discloses a method for conveying the state of an application program to a remote location, wherein the application is operating in an application program environment, the method comprising:

capturing the current state of operation of the application program (Abstract; Fig. 1; col. 5, lines 1 - 7);

saving one or more settings of a current state of the application program (Abstract; Fig. 1; col. 5, lines 1 - 7); and

transferring the recorded environment to a remote location (Abstract; Fig. 1; col. 5, lines 1 - 7).

6.2　Regarding claim 11, Matsushita discloses a method for recreating the state of an application program at a process executing at a location remote from the application program, wherein recorded application parameters include settings for recreating the state of the application program, wherein the application program is operating in an application program environment, the method comprising:

receiving, over a digital network, one or more of the recorded application parameters (Abstract; Fig. 1; col. 5, lines 1 - 7);

executing another instance of the application program at the location remote from

the application program (Abstract; Fig. 1; col. 5, lines 1 - 7); and

using the instance and the one or more of the recorded application parameters recorded

to recreate the state of the application program at the location remote from the

application program (Abstract; Fig. 1; col. 5, lines 1 - 7).

6.3   Regarding claim 14, Matsushita discloses the method of claim 11, wherein a

recorded parameter file is used (Abstract; Fig. 1; col. 5, lines 1 – 7; col. 4, lines 57 - 67).

6.4   Per claim 15, Matsushita teaches the method of claim 14, wherein the recorded

parameter file includes image information (col. 4, lines 57 - 67).

6.5   Regarding claim 16, Matsushita discloses the method of claim 14, wherein the

recorded parameter file includes setting information (Fig. 1; col. 5, lines 1 – 7).

6.6   Per claim 17, Matsushita teaches the method of claim 14, wherein the recorded

parameter file is transferred over a network (Fig. 1).

6.7   Regarding claim 18, Matsushita discloses the method of claim 12, wherein the

step of determining includes a substep of:

determining that a needed application program is not present at the location

remote from the application program (Abstract; Fig. 1; col. 5, lines 1 – 7; col. 4, lines 57

- 67).

6.9   Per claims 19 and 20, the rejection of claims 9 and 11 under 35 USC 102(b)

(paragraphs 6.1 and 6.2 above) applies fully.

Conclusion

7.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

Hayes   U.S. Pat. No. 6,105,063   Client-Server System for Maintaining

Application Preferences in a Hierarchical Data Structure According to User and User

Group or Terminal and Terminal Group Contexts

System that maintains software preferences (configuration data) for a user and a group

of users.

Rodriquez   U.S. Pat. No. 6,263,346   Network With Storage of all Client

Computer Programs in Server Computer Having Customized Client Graphical User

Interfaces with Maximum Sharing of Stored Portions of Interfaces Common to a Plurality

of Clients

Customized configurations and settings for the desktop of a user.

Dewhurst et al.   U.S. Pat. No. 6,430,609   Method for Accessing Complex

Software Applications Through a Client User Interface

Method for configuring a software application with a client user interface utilizing a

master configuration file.

Devine et al.   U.S. Pat. No. 6,467,080   Shared, Dynamically

Customizable User Documentation

A documentation repository for storing user-generated documentation relating to

software applications.

Voskuil   U.S. Pat. Pub. No. 2002/0032768   Method and System for

Configuring Remotely Located Applications

A system for automatically configuring applications on an end user computer system,

wherein the configuration or reconfiguration of the application is performed according to

the end user's requirements.

Moran et al.   U.S. Pat. Pub. No. 2004/0068567   Method and System for

Transferring a Computer Session Between Devices

Method that transfers a computer session from a first device to a second device by

transferring the context of the computer session.

8.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Kenneth R. Coulter whose telephone number is 571

272-3879. The examiner can normally be reached on 5 4 9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Rupal Dharia can be reached on 571 272-3880. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

KENNETH R. COULTER
PRIMARY EXAMINER

krc